

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3137
Administrative Law Judge Division
August 19, 2004

R E S O L U T I O N

RESOLUTION ALJ 176-3137. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

ALJ/hl2

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on August 19, 2004, the following Commissioners voting favorably thereon:

/s/ STEVE LARSON

STEVE LARSON
Executive Director

MICHAEL R. PEEVEY
President

CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3137 (8/19/04)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A04-06-038 PACIFICORP (U 901-E), for Approval of 2005 Low-Income Assistance Program Budgets.	Ratesetting	Ratesetting	YES
A04-07-006 CITY OF SAN JUAN CAPISTRANO, for authorization to construct a pedestrian/bicycle undercrossing and a three-span bridge [CPUC Crossing No. 101OR-197.88-BD] located on the Orange Subdivision at railroad mile post 197.88 in the City of San Juan Capistrano, County of Orange.	Ratesetting	Ratesetting	NO
A04-07-008 ABUHWAI, HANI A., MANA, AHMAD, SHAKER, SAKER, Application of Hani A. Abuhwaidi and Saker Shaker, to sell and transfer ownership of E-Z Ride Express to Ahmad Mana.	Ratesetting	Ratesetting	NO
A04-07-009 COMMUNICATIONS NETWORK BILLING, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A04-07-010 SOUTHERN CALIFORNIA GAS COMPANY (U 904-G), for Approval of Program Year 2005 Low-Income Assistance Programs and Funding.	Ratesetting	Ratesetting	YES
A04-07-011 SAN DIEGO GAS & ELECTRIC COMPANY, for Approval of Program Year 2005 Low-Income Assistance Programs and Funding.	Ratesetting	Ratesetting	YES
A04-07-012 SOUTHERN CALIFORNIA EDISON COMPANY, regarding Low-Income Assistance Programs for Program Year 2005.	Ratesetting	Ratesetting	YES
A04-07-013 PACIFIC GAS AND ELECTRIC COMPANY, for approval of the 2005 California Alternate Rates for Energy and Low-Income Energy Efficiency programs and budget.	Ratesetting	Ratesetting	YES

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3137 (8/19/04)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A04-07-014 SIERRA PACIFIC POWER COMPANY, for an order approving its 2005 California alternate rates for energy (CARE) and low-income energy efficiency (LIEE) plans and budgets.	Ratesetting	Ratesetting	YES
A04-07-015 AVISTA CORPORATION, for approval of program year 2005, low-income assistance program budgets.	Ratesetting	Ratesetting	YES
A04-07-016 POLYTECH ENTERPRISES, LLC, dba SHUTTLE 2000, for an Order extending its PSC#13879 On-Call Authority to include Scheduled Stops to and from the Los Angeles International Airport and Disneyland and its surrounding environs in Anaheim, California, and the Orange County Airport; and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO
A04-07-017 CITY OF FREMONT, for an Order authorizing construction of two (2) grade separated crossings at Paseo Padre Parkway (roadway underpass) and Washington Boulevard (roadway overpass) of the Union Pacific Railroad Company's realigned Warm Springs Subdivision Mainline and the future BART Warm Springs Extension, and for elimination of four (4) active and two (2) inactive at-grade crossings in the City of Fremont, County of Alameda (PUC No. 001DA-32.10-B and 001DA-32.80-A).	Ratesetting	Ratesetting	NO
A04-07-018 SOUTHERN CALIFORNIA WATER COMPANY (U 133-W), for an Order pursuant to P.U. Code Section 851 approving a Reallocation Agreement with the City of Folsom, as directed by D.04-04-069.	Ratesetting	Ratesetting	YES
A04-07-019 TRAN, TUYEN XUAN, dba SOS SHUTTLE, for Authority to operate as a chartered, pre-arranged, Passenger Stage Corporation between the San Francisco International Airport and the Oakland International Airport and the San Jose International Airport; and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO

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Resolution ALJ 176-3137 (8/19/04)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A04-07-020 SOUTHERN CALIFORNIA WATER COMPANY (U 133-W), regarding Low Income Assistance Programs for its Bear Valley Electric Service Customers for program year 2005.	Ratesetting	Ratesetting	YES
A04-07-021 CCG COMMUNICATIONS LLC, for a Certificate of Public Convenience and Necessity to Provide Resold and Limited Facilities-Based Local Exchange Telecommunications Services within California.	Ratesetting	Ratesetting	NO
A04-07-022 CHOICE TELECOMM, LLC, for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A04-07-023 GLOBAL CONNECTION INC. OF AMERICA, for a certificate of public convenience and necessity to provide resold and limited facilities-based local exchange and interexchange telecommunications services.	Ratesetting	Ratesetting	NO
A04-07-024 DAR COMMUNICATIONS CORPORATION, for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A04-07-025 PARAMOUNT UNIFIED SCHOOL DISTRICT, for an Order authorizing the construction of a pedestrian overcrossing and the conversion of an existing private at- grade pedestrian crossing to a public limited-use (Handicap Accessible) at-grade pedestrian crossing along the school property midway between Paramount Boulevard and Downey Avenue, located in the City of Paramount, County of Los Angeles, State of California.	Ratesetting	Ratesetting	NO
A04-07-026 LOOKING GLASS NETWORKS, INC., (U 6393-C), for grant of authority necessary for an Indirect Transfer of Control.	Ratesetting	Ratesetting	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A04-07-027 ALPINE NATURAL GAS COMPANY OPERATING COMPANY NO. 1 LLC, in compliance with Decision 03-12-016 (PY 2004 Low Income Energy Efficiency ("LIEE") and California Alternate Rates for Energy ("CARE") Program Plans).	Ratesetting	Ratesetting	YES
A04-07-031 FIRST POINT TELECOM, LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A04-07-032 PACIFIC GAS & ELECTRIC COMPANY, for authority (1) to sell or assign recovery property to one or more financing entities; (2) to service recovery bonds on behalf of financing entities; (3) to establish charges sufficient to recover fixed recovery amounts and fixed recovery tax amounts; and (4) for such further authority necessary to carry out the transactions described in this application.	Ratesetting	Ratesetting	NO
A04-07-033 SILVERADO STAGES, INC., for authority to operate as a Passenger Stage Corporation between points in the Counties of San Luis Obispo and Santa Barbara, and the Los Angeles International Airport and the ports of San Pedro and Long Beach; and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO
A04-07-034 SOUTHERN CALIFORNIA EDISON COMPANY, for authority to lease available land on the Laguna Bell-Lighthipe Transmission right of way to RHC Communities, LLC.	Ratesetting	Ratesetting	NO
A04-07-035 CALIFORNIA WATER SERVICE COMPANY (U 60-W), for an order authorizing in its East Los Angeles District operation of wells below the source removal level for 1,4 Dioxane or a water quality memorandum account.	Ratesetting	Ratesetting	YES

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3137 (8/19/04)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A04-07-036 CITY OF SANTA ANA, in cooperation with the Southern California Regional Rail Authority to construct an Overhead Pedestrian Crossing and the removal of two existing at-grade crossings at the Santa Ana Transportation Center located on the Orange Subdivision at railroad mile post 175.21 in the City of Santa Ana, County of Orange.	Ratesetting	Ratesetting	NO
A04-07-037 FONEBOOTH NETWORKS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	Ratesetting NDIEC Registration Application	Ratesetting	NO
A04-07-038 SACRAMENTO REGIONAL TRANSIT DISTRICT, for Authority to Modify, Maintain and Operate a light rail passenger system Blue Ravine Road in the City of Folsom, County of Sacramento, State of California.	Ratesetting	Ratesetting	NO
A04-07-039 PACIFIC GAS AND ELECTRIC COMPANY, (U 39-M) (PG&E), a California Corporation, and Solano Land Trust (Solano), a California Public Benefit Corporation, for an Order authorizing the Amendment of an Option Agreement previously approved by the Commission allowing PG&E to sell and convey to Solano certain parcels of land in Solano County pursuant to Public Utilities Code Section 851.	Ratesetting	Ratesetting	NO
A04-07-040 ICG COMMUNICATIONS, INC., ICG TELECOM GROUP, INC., MCCC ICG HOLDINGS LLC, to complete a transfer of control of ICG Telecom Group, Inc.	Ratesetting	Ratesetting	NO
A04-07-041 SOUTHERN CALIFORNIA EDISON COMPANY, for order approving settlement agreement between Southern California Edison Company and SGF, Ltd.	Ratesetting	Ratesetting	NO
A04-07-042 HILLVIEW WATER COMPANY (U 194-W), for authority to increase rates in the year 2004 by \$251,233.00 or 28.32% above the revenues generated by present rates.	Ratesetting	Ratesetting	YES
A04-07-044 PACIFIC GAS AND ELECTRIC COMPANY (U 39 G), to revise its gas rates and tariffs to be effective July 1, 2005.	Ratesetting	Ratesetting	YES

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3137 (8/19/04)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A04-07-047 DEL ORO WATER COMPANY, INC., WALNUT RANGE WATER COMPANY, INC., Application of the Walnut Ranch Water Company, Inc., a California corporation (U 74-W), for authority to sell and the Del Oro Water Co., Inc., (U 61-W) to buy the Walnut Ranch Water Company Water System in Colusa County.	Ratesetting	Ratesetting	NO
A04-07-048 CITY OF LOS ANGELES (HARBOR DEPARTMENT), for an order authorizing an at-grade pedestrian crossing of the railroad right-of-way paralleling Harbor Boulevard at the intersection of O'Farrell Street, located in the San Pedro community of Los Angeles.	Ratesetting	Ratesetting	NO
A04-07-049 SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E), for authority pursuant to Public Utilities Code Section 851 to sell certain property in its Transmission Corridor in the City of San Juan Capistrano in the County of Orange to Whispering Hills, LLC, to realign transmission and distribution lines overhead on a temporary basis and underground on a permanent basis and to enter into easements with Whispering Hills, LLC.	Ratesetting	Ratesetting	NO
A04-07-050 WEST COAST GAS COMPANY (U 910-G), for Approval of Program Year 2005 Low-Income Assistance Program Budgets.	Ratesetting	Ratesetting	NO
A04-08-001 EVERCOM SYSTEMS, INC., H.I.G. CAPITAL PARTNERS III, L.P., for approval of acquisition by H.I.G. Capital Partners III, LP of indirect control over Evercom Systems, Inc.	Ratesetting	Ratesetting	NO
A04-08-002 H.I.G. CAPITAL PARTNERS III, L.P., T-NETIX TELECOMMUNICATIONS SERVICES, INC., for approval of acquisition by H.I.G. Capital Partners III, LP of indirect control over T-NETIX Telecommunications Services, Inc.	Ratesetting	Ratesetting	NO

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Resolution ALJ 176-3137 (8/19/04)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A04-08-004 SOUTHERN CALIFORNIA EDISON COMPANY, for Order approving settlement agreement between Southern California Edison Company and CNC/SEGS, Inc.; Sithe Energies, Inc.; Exelon SHC, Inc.; GJK Solar III, UCC-1986 LUZ Solar III; and LUZ Solar Partners Ltd., III.	Ratesetting	Ratesetting	NO
A04-08-005 SYNIVERSE NETWORKS, INC., for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application		
A04-08-006 BRIDGCOM LLC/BRIDGCOM INC, for Authority to transfer the California Certificate of Public Convenience and Necessity of Bridgcom, LLC, to Bridgcom, Inc.	Ratesetting	Ratesetting	NO
A04-08-008 SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), for, Approval of its Forecast 2005 ERRRA Proceeding Revenue Requirement; to implement its ERRRA Revenue Requirement coincident with the DWR Power Charge Revenue Requirement; and to consolidate all Commission-authorized Revenue Requirements and set Unbundled Rate Components beginning January 1, 2005.	Ratesetting	Ratesetting	YES
A04-08-009 GOODRICH AEROSTRUCTURES GROUP, KIMBERLY CLARK CORPORATION, PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, THE ENERGY PRODUCERS AND USERS COALITION, for Rehearing of Resolution E-3831.	*	*	*
A04-08-010 CITY OF SANTA MARIA, PACIFIC GAS AND ELECTRIC COMPANY, Pacific Gas and Electric Company (U 39-M), for Expedited Approval under Public Utilities Code Section 851 to Grant an Easement over its fee property to the City of Santa Maria for Construction, Public Access and Maintenance of a Multi-Purpose Trail along the Santa Maria Valley Railroad Right-of-Way.	Ratesetting	Ratesetting	NO

*Application for Rehearing of Resolution is assigned to Legal Division. Categorization/Need for Hearing will be addressed as necessary if the Commission subsequently grants rehearing.

PRELIMINARY DETERMINATION SCHEDULE

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A04-08-012 CALIFORNIA-AMERICAN WATER COMPANY (U 210-W), for Authority pursuant to Public Utilities Code Section 454 to Restructure and Consolidate its Rates for its Monterey and Felton Districts.	Ratesetting	Ratesetting	YES
A04-08-013 CALIFORNIA-AMERICAN WATER COMPANY (U 210-W), for Authority pursuant to Public Utilities Code Section 454 to Restructure and Consolidate its Rates for its Sacramento and Larkfield Districts.	Ratesetting	Ratesetting	YES
A04-08-014 METAFERIA, ELIAS A., dba AAA-ABE EXPRESS SHUTTLE, for authority to operate as an on-call and door- to-door passenger stage corporation between points in San Francisco, Alameda, Contra Costa, Santa Clara, Solano, Marin, San Mateo Counties, and the San Francisco, Oakland, and San Jose International Airports and to establish a zone of rate freedom.	Ratesetting	Ratesetting	NO
A04-08-015 NORTH COUNTY TRANSIT DISTRICT, for authority to construct 4 in-station pedestrian at-grade crossings at 3 passenger light-rail stations in connection with the Oceanside to Escondido Sprinter passenger light-rail project in the City of San Marcos, County of San Diego, California.	Ratesetting	Ratesetting	NO
A04-08-016 NORTH COUNTY TRANSIT DISTRICT, for authority to construct 14 in-station pedestrian at-grade crossings at 10 passenger light-rail stations in connection with the Oceanside to Escondido Sprinter passenger light-rail project in the Cities of Oceanside, Vista and Escondido, and the County of San Diego, California.	Ratesetting	Ratesetting	NO